

EXHIBIT C

Leticia Rudolph v.
Daniel Babinec, Robert Atkinson, Twp. of Fruitport

Robert Atkinson

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October 2, 2017

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1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF MICHIGAN
3
4 LETICIA RUDOLPH,)
5 Plaintiff,)
6 vs.) Case No. 1:17-CV-125
7 DANIEL T. BABINEC, ROBERT A.) Hon. Janet T. Neff
8 ATKINSON, in their individual)
9 and official capacities, and)
10 the TOWNSHIP OF FRUITPORT,)
11 Defendants.)
12
13 Deposition of OFFICER ROBERT A. ATKINSON, taken
14 on behalf of the Plaintiff, at 5825 Airline Road, Fruitport,
15 Michigan, commencing at 2:55 p.m., on Monday, October 2, 2017,
16 before CYNTHIA M. THOMAS, CSR/RPR/CM/CRR and Notary Public.
17
18 APPEARANCES:
19 For Plaintiffs: CHRISTOPHER TRAINOR & ASSOCIATES
20 Attorneys at Law
21 BY: CHRISTOPHER J. TRAINOR
22 9750 Highland Road
23 White Lake, Michigan 48386
24 For Defendants: MCGRAW MORRIS, P.C.
25 Attorneys at Law
BY: AMANDA MARIE ZDARSKY
2075 W. Big Beaver Road
Suite 750
Troy, Michigan 48064

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1 Fruitport, Michigan, Monday, October 2, 2017
2 2:55 p.m.
3 ---
4 OFFICER ROBERT A. ATKINSON,
5 produced as a witness by and on behalf of the Plaintiff,
6 and having been first duly sworn by the Notary Public, was
7 examined and testified as follows:
8 ---
9 MR. TRAINOR: Please state your name.
10 THE WITNESS: Robert Atkinson.
11 MR. TRAINOR: Let the record reflect this is the
12 deposition of Robert Atkinson taken pursuant to notice and
13 agreement of counsel of record to be used for any and all
14 purposes consistent with the Michigan Court Rules,
15 Michigan Rules of Evidence, Federal Court Rules, Federal
16 Rules of Evidence.
17 EXAMINATION
18 BY MR. TRAINOR:
19 Q Mr. Atkinson, have you ever had your deposition taken
20 before?
21 A No.
22 Q Testify in court?
23 A Yes.
24 Q Okay. This is pretty much the same only you don't have a
25 judge here. Okay?

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1 I N D E X
2
3 WITNESS EXAMINATION PAGE
4 ROBERT A. ATKINSON BY MR. TRAINOR 3
5 BY MS. ZDARSKY 30
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13 EXHIBITS FOR IDENTIFICATION
14 (None)
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1 A All right. A courtroom full of people.
2 Q Yeah, a courtroom full of people and the judge.
3 Cindy is taking your testimony down. So if you
4 can answer with an out-loud, verbal response, it's
5 appreciated. Is that fair?
6 A That's fair, yeah.
7 Q Another thing is, is just like in the courthouse, you're
8 going to be held to the answer you give. Do you
9 understand that?
10 A Yes, sir.
11 Q So if you don't understand what I've asked, you tell me
12 that. Okay?
13 A Okay.
14 Q And you're currently employed where, sir?
15 A Employment, you said?
16 Q Yeah. Where are you employed?
17 A Fruitport County Sheriff Police Department.
18 Q Are you full time?
19 A Yes, sir.
20 Q How long?
21 A Five years now; two part time, three full time.
22 Q You were full time back on March 15th of 2015?
23 A Yes. I would have been, yeah.
24 Q Before being employed with Fruitport Police Department,
25 did you have any other police-related type employment

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1 experience?
2 A Yes.
3 Q Where?
4 A I came from Roosevelt Park Police Department.
5 Q I'm sorry?
6 A Roosevelt Park.
7 Q Where is that?
8 A It's about five, six miles northwest of here.
9 Q The town called Roosevelt Park?
10 A Yes.
11 Q Okay. Any other police department?
12 A Yeah.
13 Q Was that full time or part time?
14 A That was part time.
15 Q Any other?
16 A Yes. Muskegon Township Police Department.
17 Q Full time or part time?
18 A Part time.
19 Q And where else?
20 A New Era Police Department.
21 Q Part time or full time?
22 A Part time.
23 Q Any other?
24 A One more. Shelby Police Department.
25 Q Shelby. Part time or full time?

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1 A Part time.
2 Q Who did you work with over there at Shelby and New Era?
3 Was Morningstar over there?
4 A No. This is in Oceana County.
5 Q You never worked with Morningstar at New Era or Shelby?
6 A No.
7 Q How about Babinec; did you work with him over at New Era
8 and Shelby?
9 A Yes.
10 Q Okay. Did you work anywhere full time when you were at
11 Roosevelt Park?
12 A No. They were all part-time jobs.
13 Q And they all got you 40 to 50 to 60 hours a week?
14 A Yeah, right around there. It was a combination of two or
15 three, and there was one period of time where I think
16 I had four part-time jobs for a month or two.
17 Q Okay. Prior to becoming a police officer, how were you
18 employed?
19 A I worked in a steel shop.
20 Q Where?
21 A Harbor Steel & Supply.
22 Q Have you ever been terminated from employment?
23 A No.
24 Q Suspended?
25 A No.

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1 Q Even with police departments, you've not been suspended?
2 A No.
3 Q How about reprimanded?
4 A Yes.
5 Q For what?
6 A I was taking a catnap in the office a few years back.
7 Q Okay. Where?
8 A Here.
9 Q What did you tell the people who looked into this?
10 A With the number of hours I was working, being extremely
11 exhausted, I was just having a hard time with it. So
12 I turned the radio up and just sat down in the chair for a
13 minute, just like I'm sitting now, and I just dozed off
14 for a couple minutes. And, actually, Morningstar is the
15 one who talked to me about that, so that was the --
16 Q You told him you dozed off for a couple of minutes?
17 A Yeah.
18 Q But really you were taking a nap, right?
19 A I guess you could call it a nap, sure.
20 Q How long did you fall asleep for?
21 A Just a real short time, a few minutes.
22 Q So you were reprimanded for that. Anything else?
23 A That was it.
24 Q Did you go to college?
25 A Yes, sir.

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1 Q Where?
2 A Where do I start. Muskegon Community College, Associate's
3 degree.
4 Q Okay.
5 A West Shore College in Scottville. That was for the
6 academy.
7 Q Okay.
8 A And Baker College for a Bachelor's degree.
9 Q Oh, really? In what?
10 A Science and police work, criminal justice.
11 Q Okay.
12 A I took a short program for MSU; they have an on-line
13 program for hazardous materials, I believe it was.
14 Q All right.
15 A I think that's it for school.
16 Q Have you ever been accused by anybody that you've arrested
17 of using too much force?
18 A I'm self-reflecting here -- ten years of work -- give me a
19 second.
20 No, this would be the first.
21 Q Did you actually put your hands on Miss Rudolph in this
22 case?
23 A Yes.
24 Q My understanding is you grabbed her left wrist?
25 A Yeah, to -- yes, place her arm behind her back.

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1 Q And that's it?
2 A That was the gist of it, yeah. That was it.
3 Q Gist of it or is that all?
4 A That's all.
5 Q Okay. So you placed her hand behind her back?
6 A Yes, sir.
7 Q Okay. And who put the cuffs on her?
8 A Officer Babinec.
9 Q Okay. Did you see him push her against the wall?
10 A I didn't see any like push or shove, but I helped him by
11 holding her against the wall so she wouldn't pull away
12 from us again. I didn't see any shoving or pushing.
13 Q Okay. No one pushed her into the wall then, right?
14 A I didn't see any -- no, I didn't see any pushing.
15 Q Okay. Did you see Miss Rudolph pull away from Babinec?
16 MS. ZDARSKY: Objection to form. You mean after
17 the wall, before the wall?
18 MR. TRAINOR: At any time.
19 MS. ZDARSKY: Okay.
20 THE WITNESS: It's been so long. I remember the
21 pulling away. I can't remember -- recall if I observed
22 it.
23 BY MR. TRAINOR:
24 Q Okay.
25 A I do recall the pulling away.

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1 Q Well, what do you mean you don't know if you saw it or
2 observed it or not? Did you see her pull away or not?
3 A I can't -- I can't remember because I'm busy looking at
4 faces.
5 Q That's fair. That's fair. That's all I want to know.
6 You can't remember, right?
7 A Yes.
8 Q True?
9 A True. If it was a more recent incident ...
10 Q What about -- she ends up against the wall to put the
11 handcuffs on her, right?
12 A Yes.
13 Q And you had put your hands up like you were holding her
14 against the wall?
15 A No, I was holding the arm --
16 Q Yeah.
17 A -- while she was against the wall.
18 Q Okay. You were holding her elbow?
19 A The upper arm area and the wrist area.
20 Q Okay. To bring it behind her back, right?
21 A Yes, sir.
22 Q Okay. Was she pulling away from you?
23 A No.
24 Q Okay. So you brought it behind her back, and there was no
25 struggle from her left side, right?

1 A No, sir.
2 Q Okay. Did you have any trouble getting the handcuffs on
3 that you saw?
4 A No.
5 Q Who told you to go to Miss Rudolph's home?
6 A That was -- Officer Babinec requested that I stop by there
7 to check on her.
8 Q All right. What did he tell you?
9 A I was informed that Officer Hodges had located a gun
10 from Miss Rudolph's -- was it boyfriend or husband or
11 ex-husband.
12 Q Okay.
13 A And she was potentially suicidal. So I was to go and
14 check and see if I could make contact with her at her
15 residence.
16 Q Okay. Did he tell you what to do if you couldn't make
17 contact with her?
18 A No.
19 Q Did they tell you she was suicidal and she needed to be
20 brought in?
21 A No.
22 Q So you were going over there to check on her. And you got
23 there first, right?
24 A Yes.
25 Q And who was there when you got there?

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1 A Oh, I got there and I -- I knocked on the front door,
2 checked in some windows, didn't see or hear anybody.
3 Q So then what did you do?
4 A I waited. Officer Babinec showed up shortly after, and he
5 proceeded to knock. Eventually, she came to the door.
6 Q Okay. So your knocking didn't get anywhere but his
7 knocking did, right?
8 A Yes.
9 Q So she answered the door after he knocked, right?
10 A Yes.
11 Q And were you standing -- was there a porch?
12 A I don't remember like an exterior porch.
13 Q Okay. Were there steps that went into the house?
14 MS. ZDARSKY: Objection; form. Which location?
15 Just at the location they were at?
16 BY MR. TRAINOR:
17 Q Yeah, the location you were at.
18 MS. ZDARSKY: The door you were at.
19 THE WITNESS: I don't remember if there were
20 steps or not.
21 BY MR. TRAINOR:
22 Q Okay. Was there a storm door?
23 A I believe so. I believe there was an outer door and then
24 the regular inner one.
25 Q Okay. So when Babinec knocks on the door, she opens up

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1 the door. And was she standing -- was the main door all
2 the way open?
3 A I can't remember if she had it open or partial.
4 Q Do you say anything to Miss Rudolph?
5 A No, I believe Officer Babinec did the talking.
6 Q What did he say?
7 A I -- I don't remember.
8 Q Okay. Does she invite you guys into her home?
9 A The substance of the conversation -- I can't remember if
10 she said come on in or no, stay outside. It's been so
11 long.
12 Q Okay. So if she's testified that she told you not to come
13 in her house, you don't have any reason to disagree with
14 that, right?
15 MS. ZDARSKY: Objection to the characterization.
16 BY MR. TRAINOR:
17 Q Go ahead.
18 A I just -- I don't recall the conversation.
19 Q Okay.
20 A It's -- yeah, it's so long ago.
21 Q Okay. Do you know anything that Babinec says to her?
22 A No.
23 Q Do you know how you get into the house?
24 A How we got into the house?
25 Q Yeah. How did you get into the house?

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1 A Just walked in the front door.
2 Q Do you know what right you had to walk right in her front
3 door?
4 A Well, at that point, it was checking on her well-being to
5 make sure she didn't plan on harming herself.
6 Q And that allowed you the right to walk into her home?
7 A I believe there's a policy or guideline that allows for a
8 well-being check. I can't recall offhand, but ...
9 Q What if she tells you, get out of my house, I don't want
10 you here? Does that allow you to still go in the home?
11 A I guess that would depend on the circumstance.
12 Q How about in the circumstances in this case?
13 A If officers are genuinely concerned for someone's
14 well-being, they may potentially cause harm to themselves,
15 I think that would qualify as an emergency or exigent
16 circumstance.
17 Q Do you have any knowledge there's an indication that she's
18 going to harm herself before you go into the home?
19 A Well, the information that we had at the time, I believe
20 there was a good possibility after a pistol was acquired
21 in the middle of the night.
22 Q What information?
23 A That was given from Officer Hodges to Babinec to me.
24 Q Okay. So third-hand knowledge allows you the opportunity
25 to go into her home, right?

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1 A Again, that would depend on -- I just wish I could
2 remember more of the conversation that night. I don't
3 want to make anything up.
4 Q You don't have to make anything up. I appreciate you
5 doing your best to tell the truth here.
6 Does Miss Rudolph say anything to you
7 personally?
8 A I believe she spoke to both of us while we were there.
9 And while speaking to us, I do remember the portion of
10 the conversation -- what led me to believe she was
11 intoxicated. I caught an odor of intoxicants from her.
12 Q Was that inside or outside the house?
13 A That was in the walkway -- yeah, just inside the walkway.
14 There was like a little breezeway there, I do remember
15 that.
16 Q Okay. Well, how did you get into the breezeway?
17 MS. ZDARSKY: Objection; asked and answered.
18 BY MR. TRAINOR:
19 Q Go ahead. You just walked in?
20 A Right. I believe I was behind Officer Babinec.
21 Q Okay. Did Babinec ever go into the house and then leave
22 and then come back in again, if you know?
23 A Not that I remember.
24 Q Okay. How about you; did you ever go in and leave?
25 A No, I stayed right there with him.

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1 Q Okay. So you go in the house and the two of you are in
2 the house. And then you take her into custody and take
3 her to the car. That's the long and the short of it,
4 right?
5 A Well, there's conversation, which I wish -- like I said,
6 I wish I could remember the substance of most of it,
7 but -- yes.
8 Q Okay. So the two of you never go in, leave, and then come
9 back in again?
10 A We were there with her for the duration.
11 Q Okay. Do you ever remember her telling you to leave her
12 home?
13 A I don't.
14 Q She could have, but you don't remember, right?
15 A Right.
16 Q Do you remember anything she said like, I'm okay, leave me
17 alone, I'm not suicidal, anything like that?
18 A I do remember her refusal to be taken to the hospital.
19 Q Well, tell me how she refused.
20 A She didn't want to go because she thought she was fine,
21 she was okay.
22 Q Okay. Did anyone ask her to come with you?
23 MS. ZDARSKY: I'm sorry?
24 BY MR. TRAINOR:
25 Q Like, come on with us, let's go, we're going?

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1 A I don't remember that.
2 Q Okay. Did you give her an ultimatum?
3 A I believe I may have asked her -- told her she could --
4 she could go to the hospital or we could transport her.
5 I do remember that.
6 Q You told her that?
7 A Yes.
8 Q Before you put your hands on her to put the handcuffs on
9 her, did you ever tell her that you're under arrest?
10 A I don't remember that. I don't believe that would be
11 considered an arrest because there wasn't a -- it wasn't
12 criminal.
13 Q Did you ever tell her, turn around, put your hands behind
14 your back, we're handcuffing you?
15 A No, I don't remember that.
16 Q Okay. Did Babinec ever tell her that?
17 A Not that I can recall, no.
18 Q You prepared a supplemental report to the incident report?
19 A Yes.
20 Q The purpose of the supplemental report is to memorialize a
21 certain incident that occurred?
22 A Right, and document my involvement in that.
23 Q Okay. Be as specific as possible and put in as much
24 detail as possible, correct?
25 A Yes.

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1 Q Tell me everything Miss Rudolph did to refuse to go to the
2 hospital.
3 A Like?
4 Q Everything. What did she do?
5 A Verbally refusing.
6 Q How about physically refusing, starting with that, if she
7 did.
8 A Besides the pulling away --
9 Q When did she pull away?
10 A When we were inside the walkway there.
11 Q Tell me how she pulled away.
12 MS. ZDARSKY: Objection; asked and answered.
13 Go ahead.
14 MR. TRAINOR: That's never been answered.
15 THE WITNESS: Well, I believe it was after
16 Officer Babinec attempted to place handcuffs on her.
17 BY MR. TRAINOR:
18 Q Okay. How did he attempt to place handcuffs on her?
19 A I believe he would have tried grabbing her right arm
20 because I had her left arm.
21 Q Okay.
22 A Then after that, there was no -- no resistance on her
23 part. She was pretty cooperative.
24 Q Okay. Did she break free from you or Babinec?
25 A No. No.

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1 Q You said she pulled away though. So that, to me, means
2 she broke away.
3 A Initially. You're talking during the initial attempt to
4 place handcuffs on?
5 Q Yes.
6 A She pulled away from Officer Babinec.
7 Q Broke away from him?
8 A No. No.
9 Q And what did he do when she pulled away from him?
10 A He grabbed ahold of her arm -- a better grab, a better
11 hold.
12 Q And then what did he do?
13 A Then we held her against the wall.
14 Q Was she already against the wall?
15 A No.
16 Q How did she end up against the wall?
17 A We moved her to the wall.
18 Q Okay. You and he?
19 A Yes.
20 Q Okay. Did you escort Miss Rudolph to the car?
21 A No, that was Officer Babinec.
22 Q Did you watch him escort her to the car?
23 A I remember walking alongside of him, yes.
24 Q Okay. At what point in time did you go get her shoes?
25 A It was after she was placed in the back seat of the --

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1 Q What was Miss Rudolph saying as you were walking to the
2 car with her?
3 A I do remember her saying that her -- she had a family
4 member that was an officer, and she would be calling him.
5 Q That's on the way to the car?
6 A Yes.
7 Q Okay. Anything else she was saying?
8 A Not that I remember, no.
9 Q Was she talking the whole way to the car?
10 A I don't remember.
11 Q Did she ever complain about being hurt; you're hurting me?
12 A No. She walked without any problems.
13 Q Did she ever complain about the handcuffs being too tight?
14 A No.
15 Q Why did you put in your report that you checked the
16 handcuffs and made sure they were double locked?
17 A Standard procedure is to make sure that they're not gonna
18 cause harm to someone's wrist and they're on there -- and
19 they're not meant for comfort, but they're on there in a
20 decent fashion so they're not getting any tighter or any
21 looser.
22 Q How come Babinec didn't put that in his report?
23 MS. ZDARSKY: Objection; speculation.
24 BY MR. TRAINOR:
25 Q Go ahead.

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1 A It's possibly because I was the one that checked them
2 after he put them on.
3 Q When did you prepare your report after this incident?
4 A When?
5 Q Yeah.
6 A I can't remember if it was the night of the incident or
7 the day after. It was --
8 Q Why would it take you five days to prepare this report,
9 a supplement, after the incident?
10 MS. ZDARSKY: Objection; form, speculation.
11 BY MR. TRAINOR:
12 Q Can you answer that question or not?
13 A A ton of reasons. Number of call volume or other reports
14 that needed to be done.
15 Q Did Morningstar tell you to prepare the supplemental
16 report?
17 A No, that's --
18 Q You did it on your own?
19 A Yeah. Yes.
20 Q Okay. Because you want to be truthful and accurate and --
21 right?
22 A Yes, sir.
23 Q Did Morningstar ever investigate this and ask you
24 questions about it?
25 A Yes.

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1 Q He interviewed you personally?
2 A I can't remember if he talked to my -- just me or myself
3 and Babinec together.
4 Q But you think he spoke with you, right?
5 A Yes, he did.
6 Q Okay. If he claims he didn't speak with you, what do you
7 make of that?
8 A Bad memory. I don't know.
9 Q You're saying he did?
10 A I do remember speaking to him about the incident, yes.
11 Q In a detective-type setting?
12 MS. ZDARSKY: Objection to form; "detective-type
13 setting."
14 If you understand, you can answer the question.
15 THE WITNESS: As in at work, not my home?
16 BY MR. TRAINOR:
17 Q Yeah, at work.
18 A Yes.
19 Q He took you in a room and questioned you?
20 A Yeah, I spoke to him at our office.
21 Q Took notes?
22 A I believe he would have, yeah. I'm not -- I didn't watch
23 him write, but ...
24 Q But he had a pen and paper or pencil and paper?
25 A I don't know if he did or not. I don't remember.

1 Q Did he record the interview?
2 A I don't know.
3 Q Did you have a union representative with you?
4 A No.
5 Q Did he give you Garrity?
6 A No.
7 Q Were you concerned with him giving you Garrity?
8 MS. ZDARSKY: "With him giving you Garrity?"
9 MR. TRAINOR: Yeah.
10 MS. ZDARSKY: He just said he didn't get
11 Garrity.
12 MR. TRAINOR: He didn't.
13 BY MR. TRAINOR:
14 Q But were you concerned about that?
15 A No.
16 Q Do you know what a Use of Force form is?
17 A Yes.
18 Q What is it?
19 A A form we have at the department that's filled out anytime
20 an officer uses force.
21 Q If someone is injured during the course of an arrest, are
22 you supposed to fill one out?
23 A I'm just looking at this from two different ways in my
24 mind, whether it's officer or -- I'm trying to recall the
25 form. You know, if -- an example, if I use my taser or

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1 use an OC spray, that's all on there. I'm just trying to
2 remember if there's -- I do remember there was a section
3 for officer injuries on the Use of Force form.
4 Q How about arrestee injury?
5 A Yes. Yes, there is. There's a spot for that and if they
6 needed to be taken in for medical attention.
7 Q Okay. Can you explain how Miss Rudolph ended up with
8 bruising on her arm?
9 MS. ZDARSKY: Objection; speculation.
10 You can go ahead.
11 THE WITNESS: I don't know how that would have
12 happened, no.
13 BY MR. TRAINOR:--
14 Q Can you explain how Miss Rudolph ended up injuring her
15 ankle?
16 MS. ZDARSKY: Same objection.
17 THE WITNESS: I wouldn't know how she would have
18 done that, no.
19 BY MR. TRAINOR:
20 Q Can you explain how she ended up with swelling and redness
21 and marks on her wrists?
22 MS. ZDARSKY: Same objection.
23 Go ahead.
24 THE WITNESS: No.
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1 BY MR. TRAINOR:
2 Q I want you to assume that Miss Rudolph has testified she
3 was yanked off steps or a porch, and she landed on her
4 ankle and twisted it.
5 Was there any reason to have yanked her off the
6 steps or porch?
7 MS. ZDARSKY: Objection; form and improper
8 assumptions, characterization.
9 BY MR. TRAINOR:
10 Q Go ahead.
11 MS. ZDARSKY: If you understand the question.
12 BY MR. TRAINOR:
13 Q Would there have been any reason to have yanked her off a
14 porch or steps?
15 A No.
16 Q Okay. I want you to assume that Miss Rudolph has
17 testified that she complained that not you, but Babinec,
18 was hurting her the whole time -- you're hurting me,
19 you're hurting me -- when he shoved her or pushed her into
20 the wall.
21 Would there have been any reason to have shoved
22 her or pushed her into the wall --
23 MS. ZDARSKY: Same objections.
24 BY MR. TRAINOR:
25 Q -- such that she said she was being hurt?

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1 A No reason for any shoving. If there's somebody
2 complaining of pain in some way, we'd most certainly look
3 into it.
4 Q Okay.
5 A Like not just ignore it, if that did happen.
6 Q There's no reason to have forcefully pushed her into the
7 wall in this case, was there?
8 MS. ZDARSKY: Same objections.
9 BY MR. TRAINOR:
10 Q Go ahead.
11 A No.
12 Q That's no?
13 A No. Right, yes -- no. Excuse me, no. The answer is no.
14 Q If Miss Rudolph had complained of the handcuffs being too
15 tight, someone should have checked on the handcuffs.
16 Would you agree with me?
17 MS. ZDARSKY: Same objections;
18 mischaracterization, form, improper assumption and -- the
19 mischaracterization that someone didn't check the
20 handcuffs for tightness.
21 THE WITNESS: If somebody -- ask it again. I'm
22 sorry.
23 BY MR. TRAINOR:
24 Q If Miss Rudolph had been complaining about the handcuffs
25 being too tight, someone should have checked the

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1 handcuffs, correct?
2 A Yes, that would be appropriate to check the handcuffs.
3 Q Can you explain why no one requested an ambulance to come
4 to the scene?
5 A No.
6 Q If someone is suicidal, is it appropriate to call an
7 ambulance and ask someone to take a look at her who's got
8 more medical training than you do?
9 A If that person was willing to go, usually -- generally,
10 given options, if they were willing to ride in an
11 ambulance to the hospital, that would be an option.
12 Q Okay. Do you know why an ambulance wasn't called in this
13 case?
14 MS. ZDARSKY: Objection; asked and answered.
15 Go ahead.
16 THE WITNESS: Possibly because of Miss Rudolph's
17 refusal to go.
18 BY MR. TRAINOR:
19 Q Did you offer the option for her to go in an ambulance
20 instead of in a police car?
21 A I can't remember if she was offered that by myself or the
22 other officer on scene or not.
23 Q If it's not in anybody's report, then most likely she
24 wasn't offered the opportunity to go to the hospital in an
25 ambulance; isn't that true?

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1 A That would be true, if I didn't put it in there.
2 Q Did you ever ask why her husband wasn't brought to the
3 scene to talk with her?
4 A No, not that I can remember. No.
5 Q Did you ask -- or did you suggest that maybe we should go
6 talk to her husband before we take her away, whether she
7 told him she was suicidal or not?
8 A No.
9 Q No?
10 A No.
11 Q So you relied upon what Hodges told Babinec and Babinec
12 told you, and you engaged in the taking into custody of
13 Miss Rudolph based upon that, right?
14 A Based on the information from Officer Babinec and Hodges
15 and her condition and statements on scene.
16 Q What statements on scene did she make to you that would
17 indicate that she needed to be taken for observation?
18 A I do remember Officer Babinec asking her about the gun,
19 and she -- making -- made the statement that she was
20 cleaning it.
21 Q Okay.
22 A And given the time of the day -- night, excuse me, it
23 seemed a little out of the ordinary.
24 Q Did she indicate when she was cleaning it, whether she was
25 cleaning it during the day that day or in the evening?

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1 A No.
2 Q Other than that, any other statements?
3 A Just the odor of intoxicants that I got from her during
4 her statement.
5 Q The odor of intoxicants could be because she had one or
6 two or three drinks; isn't that true?
7 MS. ZDARSKY: Objection; speculation.
8 BY MR. TRAINOR:
9 Q That doesn't really mean anything, does it?
10 MS. ZDARSKY: Objection.
11 You can go ahead and answer if you understand
12 the question.
13 THE WITNESS: It could be any number of drinks,
14 yes.
15 BY MR. TRAINOR:
16 Q Okay. Well, what else is there other than statements from
17 Hodges and Babinec? Is there anything that would indicate
18 to you that she needed to be taken away for observation,
19 in your personal knowledge?
20 MS. ZDARSKY: Objection; asked and answered.
21 Go ahead.
22 BY MR. TRAINOR:
23 Q Go ahead.
24 A Not that I can recall, no.
25 MR. TRAINOR: That's all.

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1 MS. ZDARSKY: I'm going to have a few questions
2 for you.
3 EXAMINATION
4 BY MS. ZDARSKY:
5 Q You talked about the odor of intoxicants. Did that
6 intoxication cause you any concern for Miss Rudolph's
7 well-being that evening?
8 A Yes.
9 Q Why is that?
10 A And with the information that I arrived on scene with from
11 Mr. Rudolph's husband or ex-husband, and the other two
12 officers in combination with that, that's where
13 I developed a concern for her well-being.
14 Q Go ahead.
15 A That was it.
16 Q While you were on scene -- and I know you mentioned that
17 Officer Babinec was really having most of the conversation
18 with Miss Rudolph -- did you or did Officer Babinec ask
19 Miss Rudolph to go to Hackley Hospital voluntarily?
20 A I do remember her being asked if she would -- if she would
21 go.
22 Q Did you hear her say that she refused to go, in one way or
23 another?
24 A Yes.
25 Q There were some questions you were asked about to assume

1 things that Miss Rudolph had complained about, the
2 handcuffs being too tight. And I know that earlier you
3 testified that you didn't hear any complaints or that she
4 didn't make any complaints to you. But, nonetheless, in
5 your interaction with her, setting aside those
6 assumptions, did you actually check her handcuffs for
7 tightness?
8 A Yes.
9 Q In your conversations with Detective Morningstar, were you
10 open and honest in those conversations?
11 A Yes.
12 Q The fact that you didn't have any Garrity warning, did
13 that affect your willingness to be honest?
14 A No.
15 Q Did you eventually get shoes for Miss Rudolph?
16 A Yes.
17 Q Do you remember what kind of shoes those were?
18 A I don't.
19 MS. ZDARSKY: All right. Those are all the
20 questions that I have for you.
21 MR. TRAINOR: That's all. Thanks.
22 (Deposition concluded at 3:34 p.m.)
23 \
24 \
25

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1 CERTIFICATE
2 STATE OF MICHIGAN }
3 COUNTY OF OTTAWA } ss
4 I, CYNTHIA M. THOMAS, Certified Shorthand
5 Reporter and Notary Public, do hereby certify that the
6 foregoing deposition was taken before me at the time and
7 place hereinbefore set forth, and that said witness was
8 duly sworn by me to tell the truth, the whole truth, and
9 nothing but the truth, and thereupon was examined and
10 testified in the foregoing deposition as appears:
11 I FURTHER CERTIFY that the deposition was taken
12 in shorthand and thereafter transcribed by means of
13 computer-aided transcription by me and under my direction
14 and supervision, and that it is a true and accurate
15 transcript of my original shorthand notes.
16 I FURTHER CERTIFY that I am not a relative or
17 employee or attorney or counsel of any of the parties, or
18 financially interested directly or indirectly in this
19 action.
20 IN WITNESS WHEREOF, I have hereunto set my hand
21 this 10th day of October, 2017, at Grand Rapids, Michigan.
22
23
24
25

CYNTHIA M. THOMAS
Certified Shorthand Reporter No. 3836
Notary Public, Ottawa County, Michigan
My Commission Expires: 11-09-21

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